



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: November 25, 2003 REPORT NO. 03-241

ATTENTION: Land Use and Housing Committee
Agenda of December 3, 2003

SUBJECT: Suspension of Land Development Code Provision Allowing
Submittal of Nomination of a Designated Historical Resource by
Any Member of the Public [LDC Section 123.0202(a)]

SUMMARY

Issue – Should the Land Use and Housing Committee recommend that the City Council support a recommendation from the Planning Department to suspend for one year the Land Development Code (LDC) provision that allows any member of the public to submit property for historical designation based on department staffing and fiscal constraints? See Attachment 1 – LDC Section 123.0202(a).

Manager's Recommendation - Direct staff to return to the Historical Resources Board for further discussion of the issues and impacts of the proposal prior to forwarding to City Council for action. Support the Planning Department's recommendation to suspend the LDC provision to allow staff to develop a fee for the processing of historical designations submitted by "any member of the public" and to have time to work on other critical components of the Historical Resources work program as discussed in this report.

Other Recommendations – On November 13, the Policy Subcommittee of the Historical Resources Board discussed staff's recommendations. See the DISCUSSION section of this report for the subcommittee's comments.

Fiscal Impact – The suspension of accepting applications will be a positive fiscal impact upon staff resources in the Historical Resources program which was reduced 66 percent during the FY04 budget process. The fiscal impact of collecting a future fee will be positive. The fee will be proposed based on an estimate of the average number of hours of professional and support staff to process the voluntary designation. The collection of this fee would be proposed to cover estimated staff costs for the processing of designations that is now a free service.

BACKGROUND

The City of San Diego has one of the most active historical preservation programs in the state of California. The program is supported in the City's *Progress Guide and General Plan*, as well as in the fact that the City has been designated as a Certified Local Government (CLG) by the State Office of Historic Preservation. A CLG commits to furthering historic preservation by means of an ordinance and a review body and staff that meet minimum professional qualifications. In return, the state delegates certain review and approval responsibilities to the CLG. For the City of San Diego, this means that the Historical Resources Board or its staff may act on behalf of the state or federal government on certain actions, e.g., within Balboa Park or on Capital Improvements Projects or Housing Commission activities involving federal funding, saving City programs and projects time and money.

The planning issues that fall within the review authority and responsibilities of the Historical Resources staff continue to expand with more and more areas of the City now older than 45 years (the threshold for historical review) and with redevelopment pressures in areas of the City where there are potential historical resources. The current Work Program Elements of the Historical Resources section are Attachment 2 of this report. Included is a list of Major Upcoming Tasks that Planning Department management believes are important to undertake but for which no time has been available due to staffing reductions. The two documents in Attachment 2 were shared with the Historical Resources Board Policy Subcommittee at its November 13, 2003 meeting.

Over time, the Historical Resources program has been staffed with either one or two professional staff. During FY03, staffing consisted of one full-time program manager and one senior planner, supported by four interns and a senior clerk. The program manager had been relieved of community planning responsibilities to be able to focus on the expanding Historical Resources work program. The LDC, effective in January 2000, changed a number of provisions related to historical preservation review, instituting a requirement for review of all sites over 45 years old when either ministerial or discretionary review is proposed anywhere in the City. Previously, only discretionary review or development within adopted historical districts was subject to in-depth historical analysis. With the implementation of the LDC, the City Manager was directed to prepare historical surveys for the entire City to allow areas for development to proceed without needing project-level site-specific historical resources review. It was anticipated that the survey program would take five years and require an annual allocation of \$200,000. The Centre City area was one of the more significant community areas needing updated historical survey and designation work.

Therefore, in the fall of 2002, a vacant budgeted senior planner position was made available to the Historical Resources program to fill with an individual with historical expertise as well as with experience managing historical consultant contracts for the second of five expected years of funding of historical surveys. The position was advertised and the job offer was made. However, it was held in abeyance when a General Fund hiring freeze was instituted in mid-fiscal year 2003. The FY04 budget eliminated

the occupied program manager position and individual, as well as the pending senior planner position and the \$200,000 annual funding, leaving only one senior planner to manage an expanded work program under the direct supervision of the deputy planning director. The budget reductions also restricted funds available for the use of interns, and currently only one intern remains on staff to support the Historical Resources program. In order to make progress on historical surveys and resultant historical designations, the Planning Department requested assistance from the Development Services Department which made available a vacant senior planner position. The Planning Department then entered a Service Level Agreement for this fiscal year with the Centre City Development Corporation to fund the borrowed senior planner position to work on the Centre City survey and designation work. In addition, the department re-allocated 0.5 FTE of a senior planner from the Community Planning section to assist with the increasing number of individual sites voluntarily-submitted designations as well as other program elements.

DISCUSSION

A review of the attached Historical Resources section work program indicates there are many programs and projects for which the section has responsibility. A number of programs are in place to support other City departments' or public agency programs. These programs demonstrate substantive public benefit. Public benefit also accrues from the designation of individual private residences. Due to efforts of various communities and individual single-family property owners, historical districts such as Burlingame and Shirley Ann Place have been created. Many adopted community plans encourage conservation of historically significant areas.

Staff, therefore, has actively encouraged the voluntary designation of private residences. Some designations for private residences are submitted by individual homeowners, while many are submitted by a small number of consultants who specialize in preparing reports for those individual property owners. Property owners and their consultants make up the vast majority of the designations submitted by "any member of the public" as identified in LDC Section 123.0202(a).

When owners of private property agree to maintain the regulated characteristics of historical significance of the designated property, they become eligible for a property tax reduction commonly known as the Mills Act. The Mills Act is authorized through California Government Code section 50280 et seq, and implemented locally through Council Policy 700-46 *Mills Act Agreements for Preservation of Historic Property* (see Attachment 3). Based on staff's contact with other cities in California, it is apparent that individual site designations (most sought voluntarily), as well as Mills Act contracts, in the City of San Diego greatly outnumber designations in other jurisdictions in the state, both on an annual basis, and cumulatively, since the inception of the state law. See Attachment 4 – Individual and Contributing Site Designations Since 1995 in the City of San Diego and Attachment 5 – Average Number of Individual Designations Per Year Among California Municipalities to review the significant designation activity in the City of San Diego.

The success of the City's historical designation program has caused a workload problem that staff has been unable to resolve. The number of designations of individual properties, combined with recent and anticipated historical districts, has overwhelmed staff resources. There is substantial effort that will be required by Historical Resources staff to reevaluate or establish components of the program to ensure its long term success and sustainability while acknowledging shrinking staff resources.

- **Fee:** currently no fee is charged for the staff time to review historical reports voluntarily received from consultants and property owners, to do a field visit, to perform additional research, to write a report, and to notice and schedule the designation for a hearing at the Historical Resources Board. Similar City services to individual private property owners have a fee or deposit attached to them. The fee to be established must be studied to ensure an accurate and fair charge.
- **Submittal requirements:** current submittal requirements for site-specific historical surveys are outdated and must be updated for both individual, voluntarily-submitted designation requests, as well as for those required by the development review process.
- **Designation criteria guidelines:** designation criteria used by staff and by the Historical Resources Board are not supported by guidelines which direct their application. Staff is often questioned about the uniformity of the criteria's application for voluntary designations vs. designation considerations forced by proposed development projects. Guidelines for use of adopted criteria have been on a "to do" list for several years, with only minimal time available to do required research and analysis.

These three components are important in establishing the basis for not only voluntarily submitted designations, but all designations, in the long term. Due to the number of Major Upcoming Tasks in the Historical Resources work program, existing Historical Resources staff cannot update the voluntary designation program and carry the growing Historical Resources workload concurrently. In order to continue to provide appropriate professional staff attention to required historical work with the limited resources, staff believes the area of workload that would be most appropriate to temporarily suspend is the property owner-initiated voluntary designation program.

In order to suspend receipt of designations from members of the public, a portion of the LDC, Section 123.0202(a), must be suspended by ordinance. If supported by the Land Use and Housing Committee, Historical Resources staff will work with the City Attorney to draft an ordinance to identify "any member of the public," typically single-family homeowners or their consultants, as the individuals who will be unable to submit individual properties. With this phrasing, staff will still process historical designations associated with development projects, both ministerial and discretionary, or may process designations referred by vote of the Historical Resources Board or the City Council. City-initiated work on historical surveys and historical districts will continue.

There are several potential impacts of suspending the voluntary designation program that may be felt by individual property owners. First, owners who want to preserve the historic integrity of their properties may not feel supported by the City if the recognition provided by designation is not available temporarily. Second, property owners without designations in place will not be able to accrue the property tax relief afforded by a Mills Act contract with the City. Both of these impacts would only be felt during the time the LDC provision is suspended. Staff's goal would be to limit the suspension to approximately one year while work is done on the Major Upcoming Tasks.

HISTORICAL RESOURCES BOARD POLICY SUBCOMMITTEE DISCUSSION

Although this request is a workload and budget issue, staff sought the review of this proposal by the Historical Resources Board Policy Subcommittee on November 13. Staff made it clear to the subcommittee, and members of the public in attendance, that the proposal was budget and staffing-driven, and that staff believed there would be great benefit in being able to take on some of the Major Upcoming Tasks for which there is currently no staff capacity. The subcommittee was aware of the staff reduction this fiscal year, and reviewed the workload summary of the remaining senior planner. The subcommittee sought assurance that the scope of the staff proposal would not preclude homeowners who wanted to make modifications to historical or potentially historical properties from doing so.

The subcommittee inquired about whether there was an alternative interim approach by perhaps levying a fee, limiting the number of designation applications per month, or by suspending only the ability to obtain a Mills Act contract. Regarding the fee, staff indicated, after preliminary research, it was determined the process of establishing any fee would take research, substantiation, and time by Historical Resources staff, and that time was not available without near-term workload relief. Regarding limiting the number of designation applications per month, staff indicated analysis of that approach led to the belief the limit would be arbitrary, difficult to administer, and could cause a severe "backup" of applications waiting to be evaluated by staff prior to a fee being established. Regarding the suspension of only the Council Policy authorizing the Mills Act, staff believed the approach did not meet staff's goal of freeing up time to evaluate and institute a fee given that designations would continue to be processed without a fee. Also, it is unclear what criteria would be used to authorize the resumption of Mills Act contracts.

The subcommittee was presented with the Historical Resources Board Staff Current Work Program Elements and the Major Upcoming Tasks list (Attachment 2 of this report), and preliminary drafts of Attachments 4 and 5 related to the number of individual designations in San Diego and in California. The subcommittee asked staff to return to its meeting of December 8, following the Land Use and Housing Committee meeting, for further discussion.

Pending the outcome of that discussion, and review by the Historical Resources Board at its December meeting, staff would proceed to prepare an ordinance for action by the City Council.

ALTERNATIVES

1. Direct staff to suspend different portions of the Historical Resources section work program to reduce it to fit to available staff resources. Staff would seek guidance from the Land Use and Housing Committee if this alternative is directed.
2. Direct staff to continue to accept applications for designations from any member of the public but focus on critical work program elements discussed in Attachment 2. Staff would then seek other revisions to the LDC sections pertaining to timeframes in which staff has to process designations once submitted. This would not accomplish the staff's goal of being able to establish a fee for historical designation. Possibly 100 or more designations applications could accumulate on a waiting list for staff attention prior to establishing the designation fee unless applications are suspended.
3. If no portion of the current Historical Resources section work program is suspended, it is possible more community planning staff resources would have to be re-allocated to the Historical Resources program, resulting in a lower level of support to the recognized community planning groups.

Respectfully submitted,

S. Gail Goldberg AICP
Planning Director

Approved: P. Lamont Ewell
Assistant City Manager

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Attachments:

1. [Land Development Code Section 123.0202](#)
2. [Historical Resources Board Staff Current Work Program Elements Overview and the Major Upcoming Tasks list](#)
3. [Council Policy 700-46](#)
4. [Individual and Contributing Site Designations Since 1995 in the City of San Diego](#)
5. [Average Number of Individual Designations Per Year Among California Municipalities](#)